

Executive Summary

R657-14. Commercial Harvesting of Protected Aquatic Wildlife.

This rule: 1) establishes the procedures, standards and requirements for commercially harvesting protected aquatic wildlife for use as fish bait; and seining protected aquatic wildlife.

There are no proposed revisions to this rule at this time. This review meets the 5-year required review for this rule.

R657. Natural Resources, Wildlife Resources.

R657-14. Commercial Harvesting of Protected Aquatic Wildlife.

R657-14-1. Purpose and Authority.

(1)(a) Under authority of Sections 23-14-3, 23-14-18, and 23-14-19, and Sections 23-15-7 through 23-15-9, this rule provides the procedures, standards, and requirements for:

- (i) harvesting protected aquatic wildlife for use as fish bait; and
- (ii) seining protected aquatic wildlife.

(b) The commercial harvesting of brine shrimp and brine shrimp eggs is regulated under Rule R657-52.

R657-14-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Alternate seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting authorized species of protected aquatic wildlife in the absence of the primary seiner.

(b) "Certified bait dealer" means a person who has obtained a certificate of registration authorizing the harvest, possession, or sale of protected aquatic wildlife for use as dead fish bait.

(c) "Harvest" means to seine, or gather in protected aquatic wildlife and reduce it to possession.

(d) "Harvest location" means the location where the gathering or harvesting of protected aquatic wildlife takes place.

(e) "Helper" means a person aiding a certificate of registration holder in the harvesting, transporting, or selling of protected aquatic wildlife, including any employee, agent, family member, or donated labor.

(f) "Helper card" means a card authorizing a person to act as a helper.

(g) "Nongame fish" means all species of fish, except:

(i) any species or hybrid species of trout, including albino, brook, brown, cutthroat, golden, grayling, kokanee salmon, lake or mackinaw, rainbow, splake, and tiger;

(ii) Bonneville cisco;

(iii) bluegill;

- (iv) bullhead;
- (v) catfish;
- (vi) crappie;
- (vii) green sunfish;
- (viii) northern pike;
- (ix) largemouth bass;
- (x) Sacramento perch;
- (xi) smallmouth bass;
- (xii) striped bass;
- (xiii) tiger muskellunge;
- (xiv) walleye;
- (xv) white bass;
- (xvi) whitefish;
- (xvii) wiper; and
- (xviii) yellow perch.

(h) "Primary seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting protected aquatic wildlife.

(i) "Purchase" means to buy, acquire, or obtain from sale, exchange, barter, or trade protected aquatic wildlife for pecuniary consideration or advantage.

(j) "Seining" means to harvest protected aquatic wildlife with the use of a net or other similar device.

(k) "Wildlife registration office" means the division office in Salt Lake responsible for processing applications and issuing certificates of registration.

R657-14-3. Certificate of Registration Required.

(1)(a) A person may not harvest, possess, or transport protected aquatic wildlife without first obtaining a certificate of registration and a helper card for each individual assisting that person.

(b) The original copy of the certificate of registration must be present at the harvest location while harvesting protected aquatic wildlife.

(2) Except as provided in Subsection R657-14-13(4), a person must obtain a separate certificate of registration to engage in the following activities:

(a) harvesting or selling designated species of fish for use as fish bait; and

(b) seining and selling protected aquatic wildlife for any purpose other than for use as fish bait.

(3) A certificate of registration is not required for the retail sale of dead protected aquatic wildlife imported into Utah, provided the product is clearly labeled as to its out-of-state origin.

(4) Certificates of registration are not transferable, except as provided in Section R657-14-21.

(5) Any certificate of registration issued to a business or any other commercial organization shall be void upon the termination of the business or organization or upon bankruptcy.

(6)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the

activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

R657-14-4. Application for Certificate of Registration.

(1) Applications for certificates of registration are available at division offices.

(2) Applications for commercial seining or harvesting protected aquatic wildlife for use as fish bait may be submitted any time during the year.

(3) If an application for a certificate of registration is made in the name of a commercial organization, the applicant must specify the person responsible for that entity.

(4)(a) Completed applications must be submitted to the wildlife registration office.

(b) The division may return any application that is incomplete or completed incorrectly.

(5)(a) The application review process may require up to 45 days.

(b) The division may deny issuing a certificate of registration to any applicant for any of the following reasons:

(i) the applicant has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;

(ii) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(iii) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife.

(6) The division may limit the number of certificates of registration issued or deny any application in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application is approved, the division shall issue the applicant a certificate of registration that specifies:

(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

(b) the water and locations where protected aquatic wildlife may be harvested;

(c) the gear that may be used;

(d) the hours during which protected aquatic wildlife may be harvested;

(e) the means and amounts of protected aquatic wildlife that may be transported; and

(f) any restriction imposed on the applicant in addition to the provisions of this rule.

(8)(a) Certificates of registration for seining or harvesting protected aquatic wildlife for use as fish bait are valid for a calendar year.

R657-14-5. Use of Helpers.

(1)(a) Except as provided in Subsection (2), any person aiding the certificate of

registration holder in seining protected aquatic wildlife shall be in possession of a helper card.

(b) A helper card shall be deemed to be in possession if it is on the person or on the boat from which the person is working.

(2) A helper card is not required of any person engaged only in the retail sale or transportation of protected aquatic wildlife.

(3) Helper cards are issued in the name of the certificate of registration holder and are transferable among individuals assisting the certificate of registration holder.

(4)(a) A helper may assist in the harvest of protected aquatic wildlife only while working under the direct supervision of a primary or alternate seiner.

(b) For purposes of this rule, "direct supervision" means to be physically present, either on a boat with the helper or within close proximity so as to be able to provide direct instructions to the helper.

(5) Twelve additional helper cards for each Certificate of Registration may be obtained from the wildlife registration office at any time during the year.

R657-14-6. Records - Report of Activities.

(1) Each person who has been issued a certificate of registration authorizing the harvest or sale of protected aquatic wildlife shall keep accurate records of the number or weight harvested and to whom the products were sold.

(2) The records required under Subsection (1) shall be retained for at least five years and must be available for inspection upon division request.

(3)(a) A person who has been issued a certificate of registration for seining or harvesting protected aquatic wildlife for use as fish bait shall include the following information, broken down by month, in an annual report to the division:

- (i) the species of protected aquatic wildlife harvested;
- (ii) the water from which the protected aquatic wildlife were harvested; and
- (iii) the total number or weight of protected aquatic wildlife harvested.

(b) A person who has been issued a certificate of registration for the retail sale of protected aquatic wildlife shall include the following information, broken down by month, in an annual report to the division:

- (i) the name and address of each person from which protected aquatic wildlife was purchased or sold;
 - (ii) the species of protected aquatic wildlife purchased or sold; and
 - (iii) the weight and number of protected aquatic wildlife purchased or sold.
- (c) Report forms are provided by the division.

R657-14-7. Species of Protected Aquatic Wildlife That May Be Harvested.

(1)(a) The division may authorize a person to harvest or sell the following nongame fish:

- (i) Utah Chub (*Gila atraria*);
- (ii) Carp (*Cyprinus carpio*);
- (iii) Mountain sucker (*Catostomus platyrhynchus*);
- (iv) Utah sucker (*Catostomus ardens*); or

- (v) Redside shiner (*Richardsonius batteatus*).
- (b) The division may authorize a person to harvest or sell overabundant nuisance game species, as determined by the division.
- (c) The certificate of registration shall identify those species of protected aquatic wildlife that may be harvested or sold.
- (2) Any species of protected aquatic wildlife caught that is not authorized for harvest must be immediately returned alive and unharmed to the water from which it was harvested.

R657-14-8. Prohibited Nongame Species.

The following species of protected aquatic wildlife may not be harvested, and if caught must be immediately returned alive and unharmed to the water from which it was taken:

- (1) bonytail (*Gila elegans*);
- (2) bluehead sucker (*Catostomus discobolus*);
- (3) Colorado pikeminnow (*Ptychocheilus lucius*);
- (4) flannelmouth sucker (*Catostomus latipinnis*);
- (5) gizzard shad (*Dorosoma cepedianum*);
- (6) grass carp (*Ctenopharyngodon idella*);
- (7) humpback chub (*Gila cypha*);
- (8) June sucker (*Chasmistes liorus*);
- (9) least chub (*Lotichthys phlegethontis*);
- (10) leatherside chub (*Gila cypha*);
- (11) razorback sucker (*Xyrauchen texanus*);
- (12) roundtail chub (*Gila robusta*);
- (13) Virgin River chub (*Gila robusta seminuda*);
- (14) Virgin spinedace (*Lepidomeda mollispinis*); and
- (15) woundfin (*Plagopterus argentissimus*).

R657-14-9. Harvest Hours.

- (1) Protected aquatic wildlife may be harvested from 5 a.m. to 10 p.m. year-round, unless otherwise specified on the certificate of registration.
- (2) When the harvest season is suspended or closed, all harvest activity shall cease at official sunset.

R657-14-10. Identification of Traps and Nets.

- (1) A metal tag or plate stamped with the owner's name and certificate of registration number must be securely attached to each seine, trap and net.
- (2) Any improperly tagged seine, trap, or net may be seized by the division.

R657-14-11. Transportation, Purchase, or Sale of Live Protected Aquatic Wildlife.

- (1) A person may not have in possession any live species of protected aquatic wildlife, except as provided in Rules R657-3 or R657-16.
- (2) A person may not purchase any live protected aquatic wildlife from or sell any live protected aquatic wildlife to any person or entity who has not obtained a

certificate of registration to possess or sell live protected aquatic wildlife, except as provided in Subsection R657-14-3(3).

R657-14-12. Certified Bait Dealers.

(1) The division may authorize a person to harvest or sell designated species of protected aquatic wildlife for use as dead fishing bait, including cut baits.

(2)(a) The division may allow a person to harvest, possess, or sell the species of protected aquatic wildlife for use as dead fish bait as provided in Section R657-14-7.

(b) The division shall not allow a person to harvest, possess, or sell any other protected aquatic wildlife for use as dead fish bait except as provided in Section R657-14-7.

(3)(a) A person may not purchase dead fish bait from any person who has not obtained a certificate of registration from the division.

(b) Subsection (a) does not preclude commerce with out-of-state sellers of dead, prepared fish baits if the dead fish bait is clearly labeled as to its origin.

(4)(a) Only a person who has obtained a certificate of registration from the division may harvest, sell, or trade protected aquatic wildlife for use as fish bait.

(b) Any protected aquatic wildlife sold for use as fish bait must be packaged in a suitable container, and have securely attached a clearly discernable business label on each package that provides the brand or business name, business address, type of product, and certificate of registration number.

(5) A person may not purchase or sell any dead fish bait that does not have a label attached to the package as provided in Subsection (4)(b).

R657-14-13. Commercial Seining.

(1) The division may issue a certificate of registration authorizing a person to harvest designated species of protected aquatic wildlife by seining.

(2)(a) Three helper cards are issued with the certificate of registration.

(b) Additional helper cards may be obtained from the division.

(3) A seiner may harvest any species of nongame fish listed under Section R657-14-7, and any overabundant game species as determined by the division and indicated on the certificate of registration.

(4) A seiner may harvest or sell protected aquatic wildlife for use as dead fish bait as provided in Section R657-14-12, if authorization is obtained from the division and indicated on the certificate of registration.

R657-14-14. Violations.

(1) The penalty for any violation of this rule is a class C misdemeanor as provided in Section 23-13-11(2).

(2) Any violation of, or failure to comply with the provisions of this rule, any requirement contained in a certificate of registration issued pursuant to this rule, or any Wildlife Board Order may be grounds for revocation, suspension or denial of future certificates of registration as determined by a division hearing officer.

KEY: game laws, bait dealers, commercialization of aquatic wildlife

Date of Enactment or Last substantive Amendment: September 4, 2002

Notice of Continuation: July 9, 2007

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-13-13;
23-15-7; 23-15-8; 23-15-9; 23-14-3